

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
WESTERN DIVISION

JDS UNIPHASE CORPORATION)
BENEFITS COMMITTEE OF THE)
JDS UNIPHASE CORPORATION)
EMPLOYEE 401(K) RETIREMENT)
PLAN,)
Plaintiff)

vs.)

DAVID M. KORNACKI, ET AL)
Defendants)

CIVIL ACTION NO. 05-11499-MAP

**DEFENDANT, MABEL TAVARES', ANSWER TO FIRST
AMENDED COMPLAINT FOR DECLARATORY RELIEF,
INJUNCTION AND CONSTRUCTIVE TRUST**

Now comes the defendant, Mabel Tavares, and answers the First Amended Complaint as follows:

1. The defendant, Tavares, admits the allegations contained in paragraphs 1, 2, and 3 of the complaint.
2. The defendant, Tavares, neither admits nor denies the allegations contained in paragraph 4 of the complaint and states that no answer is required and that the plan document speaks for itself.
3. The defendant, Tavares, neither admits nor denies the allegations contained in paragraph 6 of the complaint and states that it has no knowledge of the same.
4. The defendant, Tavares, admits the allegations in paragraph 7 of the complaint.
5. The defendant, Tavares, neither admits nor denies the allegations contained in paragraphs

8 and 9 of the complaint and states that no answer is required.


6. The defendant, Tavares, admits the allegations contained in paragraph 10 of the complaint.
7. The defendant, Tavares, neither admits nor denies the allegations contained in paragraphs 11 and 12 of the complaint and states that either the documents speak for themselves or that the allegations contain legal conclusions to which no answer is required.
8. The defendant, Tavares, admits the allegations contained in paragraphs 13, 14 and 15 of the complaint.
9. The defendant, Tavares, neither admits nor denies the allegations contained in paragraphs 16, 17, 18 and 19 and states that the documents and orders speak for themselves.
10. The defendant, Tavares, admits the allegations contained in paragraphs 20, 21, 22 and 23 of the complaint.
11. The defendant, Tavares, neither admits nor denies the allegations contained in paragraph 24 of the complaint and states that no answer is necessary.
12. The defendant, Tavares, admits the allegations contained in paragraph 25 of the complaint, but denies that an actual controversy exists between JDS and the defendant, Tavares.
13. The defendant, Tavares, neither admits nor denies the allegations contained in paragraph 26 of the complaint and states that it has no knowledge of the same.
14. The defendant, Tavares, denies the allegations contained in paragraphs 27, 28, 29, 30, 31 and 32 of the complaint.

WHEREFORE, the defendant prays that:

1. Any request for an injunction or temporary restraining order be denied;
2. Judgment be entered in her favor;
3. She be awarded interest, costs and attorneys fees under ERISA;
4. The court grant such other further relief as it deems proper.

THE DEFENDANT, MABEL TAVARES
BY HER ATTORNEY

Dated: October 7, 2005


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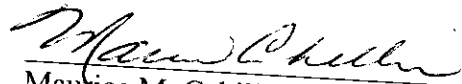
CERTIFICATE OF SERVICE

I, Maurice M. Cahillane, hereby certifies that on October 7, 2005, a true copy of the above document was served upon the attorney of record for each other party, by hand delivering or mailing first class mail, postage prepaid to:

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